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PREVENTION OF DISCRIMINATION

The rights of non-citizens

Progress report of the Special Rapporteur, Mr. David Weissbrodt, submitted in accordance with Sub-Commission decisions 2000/103 and 2001/108, as well as Commission decision 2002/107

Addendum

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I. INTRODUCTION

1. This addendum (E/CN.4/Sub.2/2002/25/Add.1) to the progress report of the Special Rapporteur on the rights of non-citizens (E/CN.4/Sub.2/2002/25) supplements the 2001 addendum (E/CN.4/Sub.2/2001/20/Add.1) to the preliminary report of the Special Rapporteur (E/CN.4/Sub.2/2001/20) by providing updated jurisprudence and concluding observations with respect to the rights of non-citizens. The jurisprudence and concluding observations in this addendum cover treaty-monitoring body sessions from January 2001 through March 2002. This addendum also includes new material on recent jurisprudence of the International Court of Justice and the work of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance as they relate to the rights of non-citizens. In addition, it presents the Global Consultations process launched by the Office of the United Nations High Commissioner for Refugees (UNHCR) in 2000 to enhance the protection of refugees - a particular group of non-citizens.

2. Drawn from periodic reports on national conditions, the jurisprudence and concluding observations discussed below provide a general overview of the problems most commonly addressed by the monitoring bodies. As such, the information provides a basis for some reflection on the frequency of various problems but does not necessarily portray the current situation in a particular country as of the date of this report. The Special Rapporteur would welcome any supplemental information and corrections.

II. COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

3. The Committee on the Elimination of Racial Discrimination (CERD) examined cases of discrimination against non-citizens in its consideration of a number of periodic reports at its fifty-eighth session from 6 to 23 March 2001, its fifty-ninth session from 31 July to 17 August 2001, and its sixtieth session from 4 to 22 March 2002.

Jurisprudence

4. In 2001, CERD adopted the following view on the rights of non-citizens, pursuant to its mandate under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination to consider communications.

5. At its fifty-eighth session in 2001, CERD considered *F.A. v. Norway*.[1] The communication alleged that a private housing agency sold the petitioner a list of available housing accommodations which, for certain housing, contained discriminatory requirements such as "no foreigners desired", "Whites only", or "Norwegians with permanent jobs". The owner of the housing agency was eventually charged with violating section 349a of the Norwegian Penal Code, which reads as follows:

> "Any person who in an occupational or similar activity refuses any person goods or services on the same conditions as apply to others because of his religion, race, colour of skin, or national or ethnic origin, shall be liable to fines or imprisonment for a term not exceeding six months ...

...

The same penalty shall also apply to any person who incites or is in any other way accessory to any act mentioned in the previous paragraph."

The Oslo City Court, however, acquitted the owner of the housing agency.[2] The Norwegian Supreme Court rejected an appeal of the Oslo City Court's acquittal, finding that the acts in question were not covered by section 349a.[3] Although CERD found the communication inadmissible on the grounds that it was not filed in a timely manner,[4] the Committee did take the "opportunity to urge the State party to take effective measures to ensure that housing agencies refrain from engaging in discriminatory practices and do not accept submissions from private landlords which would discriminate on racial grounds", and recalled that in its concluding observations on the fifteenth periodic report of Norway it had "expressed concern that persons seeking to rent or purchase apartments and houses were not adequately protected against racial discrimination on the part of the private sector", and "recommended that Norway give full effect to its obligations under article 5 (e) (iii) of the Convention".[5]

Concluding observations

6. CERD reflected its continuing concern about various forms of discrimination against non-citizens in its consideration of several States parties' reports at its fifty-eighth, fifty-ninth, and sixtieth sessions. In doing so, CERD made concluding observations and comments on the rights of non-citizens with regard to numerous countries, reflecting its mandate under the Convention to address discrimination against non-citizens.

7. In examining the fifteenth and sixteenth periodic report of Iceland[6] at its fifty-eighth session, CERD noted "that Icelandic nationality is lost by persons who acquire another nationality by their own application, while dual citizenship is allowed for foreign nationals who acquire Icelandic citizenship".[7] The Committee therefore recommended that the State party consider the possibility of acceding to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, which prohibit deprivation of nationality on discriminatory grounds and stipulate that a State party should grant nationality to persons born on its territory who would otherwise be stateless.[8]

8. At the same session, CERD considered the initial and second periodic reports of Japan,[9] in which, with regard to children of foreign nationality residing in Japan, it noted "that elementary and lower secondary education is not compulsory".[10] The Committee was concerned that "different standards of treatment in this respect", with reference to articles 3 and 5 (e) (v) of the Convention, "may lead to racial segregation and the unequal enjoyment of the rights to education, training and employment". It therefore recommended "that the State party ensure that the rights contained in article 5 (e) are guaranteed without distinction as to race, colour, or national or ethnic origin".[11]

9. Also with respect to Japan, the Committee expressed concern about discrimination against the Korean minority.[12] CERD was particularly concerned "that studies in Korean are not recognized and that resident Korean students receive unequal treatment with regard to access to higher education".[13] The Committee, therefore, recommended that the "State party undertake

appropriate measures to eliminate discriminatory treatment of minorities, including Koreans, in this regard and to ensure access to education in minority languages in public Japanese schools".[14] Furthermore, "although there are no longer any administrative or legal requirements for Koreans applying for Japanese nationality to change their names to a Japanese name", the Committee expressed its concern "that authorities reportedly continue to urge applicants to make such changes and that Koreans feel obliged to do so for fear of discrimination".[15] The Committee, "considering that the name of an individual is a fundamental aspect of the cultural and ethnic identity", recommended "that the State party take the necessary measures to prevent such practices".[16]

10. At the fifty-eighth session, the Committee also examined the fifteenth periodic report of Germany.[17] The Committee was concerned about "repeated reports of racist incidents in police stations, as well as ill-treatment inflicted by law enforcement officials on foreigners, including asylum-seekers, and German nationals of foreign origin".[18] The Committee therefore urged the "State party to strengthen existing educational measures for civil servants who deal with issues involving foreigners, including asylum-seekers, and German nationals of foreign origin".[19]

11. In reviewing the ninth, tenth, and eleventh periodic reports of Sudan[20] at the same session, the Committee noted "that different standards of treatment are reportedly used for different categories of asylum-seekers, i.e. whereas asylum-seekers from mainly neighbouring countries to the east, west and south, except Chad, are granted refugee status, asylum-seekers from Arab countries are allowed to stay on an informal and unofficial basis".[21] CERD therefore recommended that Sudan "apply international and regional standards pertaining to refugees equally, regardless of the nationality of the asylum-seeker".[22]

12. In examining the eighth and ninth periodic reports of China[23] at is fifty-eighth session, CERD reiterated "its concern regarding the situation of foreign domestic workers in the Hong Kong Special Administrative Region, mainly from the Philippines, Indonesia and Thailand, and the existence of certain rules and practices, such as the so-called 'two-week rule', which may be discriminatory in effect".[24] The "two-week rule" was introduced in April 1987 and regulates the conditions of stay of foreign domestic workers in Hong Kong. Under the rule, foreign domestic workers, upon termination of employment, cannot seek other employment within Hong Kong and must leave the country within two weeks of said termination.

13. In considering the fifteenth and sixteenth periodic reports of Cyprus[25] at the same session, CERD expressed concern regarding "information on cases of violence committed by police against aliens entering Cyprus illegally" and recommended that the Government "continue to monitor such incidents closely and take appropriate steps to deal with them".[26]

14. During its examination of the thirteenth, fourteenth, fifteenth, and sixteenth periodic reports of Egypt[27] at its fifty-eighth session, CERD expressed "its concern at the nationality law, which prevents an Egyptian mother married to a foreigner from passing on her nationality to her children".[28] In the same concluding observations, CERD also expressed its concern that "children born to Egyptian mothers and foreign fathers are faced with discrimination in the field of education".[29]

15. While considering the seventh, eighth, and ninth periodic reports of Sri Lanka[30] in August 2001, CERD expressed its concern "at the fact that a large number of Tamils of Indian origin, particularly plantation workers and their descendants, have still not been granted citizenship and that many of them even continue to be stateless".[31] CERD went on to note that "Tamils without Sri Lankan citizenship are allegedly discriminated against and do not fully enjoy their economic, social and cultural rights".[32] The Committee therefore recommended that "early and effective measures be taken to solve this problem and that these persons should not be threatened with repatriation".[33]

16. At the same session, CERD considered the fifteenth and sixteenth periodic reports of Ukraine.[34] In doing so, it noted "efforts made by the State party to facilitate the resettlement and rehabilitation of Crimean Tartars" but reiterated "its concern regarding the difficulties experienced by the Crimean Tartars in acquiring Ukrainian citizenship".[35] At the same session, the Committee "was disturbed by the oral statement of the delegation that many nationals of a certain African country are involved in drug trafficking in Ukraine". CERD strongly recommended "that the State party take actions to counter any tendency to target, stigmatize or stereotype, which could lead to racial profiling of particular population groups by police and immigration officers as well as in the media and society at large".[36]

17. In considering the initial, second, and third periodic reports of the United States of America,[37] also at its fifty-eighth session, the Committee noted "with concern the incidents of police violence and brutality, including cases of deaths as a result of excessive use of force by law enforcement officials, which particularly affect minority groups and foreigners".[38] The Committee recommended "that the State party take immediate and effective measures to ensure the appropriate training of the police force with a view to combating prejudices which may lead to racial discrimination and ultimately to a violation of the right to security of persons"[39] and "that firm action be taken to punish racially motivated violence and ensure the access of victims to effective legal remedies and the right to seek just and adequate reparation for any damage suffered as a result of such actions".[40]

III. HUMAN RIGHTS COMMITTEE

18. In 2001, the Human Rights Committee met for its seventy-first session from 19 March to 6 April, its seventy-second session from 9 to 27 July, and it seventy-third session from 15 October to 2 November. In 2002, the Committee met for its seventy-fourth session from 18 March to 5 April.

Jurisprudence

19. The Human Rights Committee, established pursuant to article 28 of the International Covenant on Civil and Political Rights, has adopted the following views in 2001 and early 2002 on the rights of non-citizens, reflecting its mandate under the (first) Optional Protocol to the International Covenant on Civil and Political Rights to consider individual communications.

20. At its seventy-second session, the Committee reviewed *Blazek, Hartman and Krizek v. Czech Republic*,[41] which concerned the petitions of persons who are naturalized United States citizens, who were born in Czechoslovakia and lost Czechoslovak citizenship by virtue of

the 1928 Naturalization Treaty between the United States and Czechoslovakia, which precludes dual citizenship. The petitioners left Czechoslovakia after the Communist takeover in 1948. Their properties in Czechoslovakia were subsequently confiscated pursuant to confiscation regulations of 1948, 1955, and 1959.

21. The petitioners claimed to be victims of violations of their Covenant rights by the Czech Republic in connection with the confiscation of their properties by the Communist authorities and the discriminatory failure of the democratic Governments of Czechoslovakia and of the Czech Republic to make restitution. They were denied restitution because they were not Czech citizens. The petitioners alleged a violation of article 26 of the Covenant which guarantees all persons equality before the law and prohibits "any discrimination ... on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status".

22. The Committee found that the Czech Republic had violated article 26 and that the State party was under an obligation to "provide the authors with an effective remedy, including an opportunity to file a new claim for restitution or compensation".[42] Furthermore, the Committee encouraged "the State party to review its relevant legislation and administrative practices to ensure that neither the law nor its application entails discrimination in contravention of article 26 of the Covenant".[43]

23. In reaching its conclusion, the Committee recalled its views in *Alina Simunek v. Czech Republic*[44] and *Joseph Adam v. Czech Republic*,[45] where it held that article 26 had been violated: "The authors in that case and many others in analogous situations had left Czechoslovakia because of their political opinions and had sought refuge from political persecution in other countries, where they eventually established permanent residence and obtained a new citizenship. Taking into account that the State party itself is responsible for [their] ... departure, it would be incompatible with the Covenant to require [them] ... to obtain Czech citizenship as a prerequisite for the restitution of their property, or, alternatively, for the payment of compensation".[46]

24. Also at the seventy-second session, the Committee considered *Winata and Lan Li v. Australia*.[47] The petitioners were a married couple originally from Indonesia. They had lost their Indonesian citizenship and were thus stateless. They petitioned on their own behalf as well as on the behalf of their 13-year-old son, a citizen of Australia. The petitioners, after overstaying their visas to Australia, faced deportation to Indonesia. They alleged violations of their Covenant rights embodied in articles 17, 23, paragraph 1, and 24, paragraph 1.

25. Article 17 states:

> "1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
>
> "2. Everyone has the right to the protection of the law against such interference or attacks."

26. Article 23, paragraph 1 states:

> "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State."

27. Article 24, paragraph 1 states:

> "Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State."

28. The Committee was of the view that the removal by the State party of the authors would, if implemented, entail a violation of articles 17, 23, paragraph 1, and 24, paragraph 1, of the Covenant. The Committee reasoned:

> "It is certainly unobjectionable under the Covenant that a State party may require, under its laws, the departure of persons who remain in its territory beyond limited duration permits. Nor is the fact that a child is born, or that by operation of law such a child receives citizenship either at birth or at a later time, sufficient of itself to make a proposed deportation of one or both parents arbitrary. Accordingly, there is significant scope for States parties to enforce their immigration policy and to require departure of unlawfully present persons. That discretion is, however, not unlimited and may come to be exercised arbitrarily in certain circumstances. In the present case, both authors have been in Australia for over 14 years. The authors' son has grown in Australia from his birth 13 years ago, attending Australian schools as an ordinary child would and developing the social relationships inherent in that. In view of this duration of time, it is incumbent on the State party to demonstrate additional factors justifying the removal of both parents that go beyond a simple enforcement of its immigration law in order to avoid a characterization of arbitrariness. In the particular circumstances, therefore, the Committee considers that the removal by the State party of the authors would constitute, if implemented, arbitrary interference with the family, contrary to article 17, paragraph 1, in conjunction with article 23, of the Covenant in respect of all of the alleged victims, and, additionally, a violation of article 24, paragraph 1, in relation to Barry Winata due to a failure to provide him with the necessary measures of protection as a minor".[48]

Concluding observations

29. In 2001 and 2002 the Human Rights Committee also adopted a number of concluding observations and comments regarding the rights of non-citizens under the Covenant.

30. At its seventy-first session, the Committee considered the fourth periodic report of the Dominican Republic.[49] The Committee paid attention to the treatment of Haitians living in that country. Specifically, the Committee expressed its concern "over the failure to protect Haitians living or working in the Dominican Republic from serious human rights abuses such as forced labour and cruel, inhuman or degrading treatment".[50] It also expressed concern "over the living and working conditions of Haitian workers and the tolerated practices that restrict their freedom

of movement".[51] The Committee also mentioned concern at the abuse of the legal notion of "transient aliens" who, according to information possessed by the Committee, "may be born in the Dominican Republic to parents who were also born there but are still not considered to be nationals of the Dominican Republic".[52] The Committee therefore stated that the Dominican Republic "should regulate the situation of everyone living in the country and grant the rights recognized by article 12 [freedom of movement and residence] of the Covenant".[53]

31. At the same session, the Committee examined the initial periodic report of Croatia.[54] In its concluding observations, the Committee, "while welcoming the amendment to article 14 of the Constitution that extended equality to non-citizens", remained "concerned that other provisions continue to restrict certain rights to 'citizens', leaving uncertain whether such rights are guaranteed to all individuals in the territory of the State party and subject to its jurisdiction, as required under article 2, paragraph 1, of the Covenant".[55]

32. In reviewing the second periodic report of the Syrian Arab Republic[56] at the same session, the Committee opined that "the discretionary power of the Minister of the Interior to order the expulsion of any alien, without safeguards, if security and the public interest so require poses problems with regard to article 13 of the Covenant, particularly if the alien entered Syrian territory lawfully and has obtained a residence permit".[57] The Committee requested that "before expelling an alien, the State party should provide him or her with sufficient safeguards and an effective remedy, in conformity with article 13 of the Covenant".[58]

33. At its seventy-second session, the Committee examined the initial periodic report of the Czech Republic.[59] The Committee expressed deep concern "about the persistent allegations of police harassment, particularly of the Roma minority and aliens, which the delegation described as resulting from lack of sensitivity rather than harassment (arts. 2, 7, 9, 26)".[60] The Committee stated that "the State party should take firm measures to eradicate all forms of police harassment of aliens and vulnerable minorities".[61]

34. At the same session the Committee examined the initial periodic report of the Principality of Monaco.[62] The Committee expressed "its concern that no justification is given for the administrative measures relating to the expulsion of foreigners (art. 13 of the Covenant)".[63] The Committee recommended that "the State party should assume the obligation of justifying administrative decisions, particularly those relating to expulsions".[64] The Committee also requested that the State party "transmit within one year, in accordance with rule 70, paragraph 5, of the Committee's rules of procedure, relevant information on the implementation of the Committee's recommendations on the non-justification of administrative measures relating to the expulsion of foreigners".[65]

35. Also at the seventy-second session, the Committee examined the third periodic report of the Netherlands.[66] The Committee welcomed "the recent appointment of an independent National Rapporteur on Trafficking in Persons endowed with appropriate investigative and research powers," but remained concerned "at continuing reports of sexual exploitation of significant numbers of foreign women in the State party (arts. 3, 8, and 26 of the Covenant)".[67]

36. At the same session, in reviewing the second periodic report of the Democratic People's Republic of Korea,[68] the Committee was of the opinion that "the requirement, under the

Immigration Law of the Democratic People's Republic of Korea, of administrative permission to travel abroad, and the requirement, for foreigners in the Democratic People's Republic of Korea, to obtain exit visas to leave the country, are incompatible with the provisions of article 12, paragraph 2, of the Covenant".[69] The Committee recommended that the State party "eliminate the requirement of administrative permission and an exit visa as a general rule and require them only in individual cases that can be justified in the light of the Covenant".[70]

37. At its seventy-third session, the Committee examined the second periodic report of Azerbaijan[71] and found some of its national provisions regarding non-citizens to fall short of its obligations under the Covenant. With regard to the rights of aliens, the Committee considered "that the provisions in the State party's legislation providing for the principle of reciprocity in guaranteeing Covenant rights to aliens are contrary to articles 2 and 26 of the Covenant".[72] The Committee was "equally concerned that according to article 61 of the Constitution, the right to immediate access to legal representation is guaranteed only to citizens".[73] The Committee therefore recommended "that the State party take appropriate measures to guarantee all rights of aliens in accordance with articles 2 and 26 of the Covenant".[74]

38. At the same session the Committee considered the second periodic report of Switzerland.[75] In doing so, it expressed deep concern regarding "reported instances of police brutality towards persons being apprehended and detainees, noting that such persons are frequently aliens"[76] and that "in the course of deportation of aliens there have been instances of degrading treatment and use of excessive force, resulting on some occasions in death of the deportee".[77] The Committee recommended that the State party "ensure that all cases of forcible deportation are carried out in a manner which is compatible with articles 6 and 7 of the Covenant. In particular, it should ensure that restraint methods do not affect the life and physical integrity of persons concerned."[78]

39. Also with respect to the second periodic report of Switzerland, the Committee expressed concern "at the consequences of distinctions made in various pieces of legislation between citizens and non-citizens, the latter forming a considerable segment of the workforce".[79] In particular, the Committee was concerned that "aliens without working papers run the risk of becoming victims of exploitation and abuse".[80] The Committee was also concerned that "another vulnerable category of persons are foreign spouses of foreigners with residence permits, who are subject to deportation in case of discontinuation of de facto cohabitation and, hence, may be forced to live in abusive relationships".[81] The Committee recommended that the State party "review its policies in relation to distinctions between citizens and aliens and between different categories of aliens, in particular in respect of those who do not have papers and spouses of foreigners with residence permits, in order to ensure that the rights of such persons under the Covenant are respected and ensured (arts. 2, 3, 9, 12, 17 and 23)".[82]

40. At the same session, with respect to the review of the fifth periodic report of Ukraine,[83] the Committee expressed concern "about allegations of police harassment, particularly of the Roma minority and aliens".[84] The Committee recommended that the State party "take effective measures to eradicate all forms of police harassment, and set up an independent authority to investigate complaints against the police. It should take steps against those held responsible for such acts of harassment".[85]

IV. COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

41. In 2001, the Committee on Economic, Social and Cultural Rights (CESCR) met for its twenty-fifth session from 23 April to 11 May, its twenty-sixth (extraordinary) session from 13 to 31 August, and its twenty-seventh session from 12 to 30 November. The Committee met for its twenty-eighth session from 29 April to 17 May 2002.

42. The Committee considered a number of periodic reports submitted by States Parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights and issued the following comments and concluding observations regarding the rights of non-citizens under the Covenant.

Concluding observations

43. At its twenty-fifth session the Committee considered the initial periodic report of China with respect to the Hong Kong Special Administrative Region.[86] The Committee reiterated its concern, first expressed in 1996, about "the denial of the right of foreign domestic helpers upon expiration of their contract to freely seek employment and to protection from discrimination, owing to the 'two-week rule'".[87]

44. At its twenty-sixth (extraordinary) session, the Committee examined the second periodic report of Senegal.[88] The Committee expressed its concern "that foreign workers are still not permitted to hold trade union offices, in spite of the Committee's recommendation to that effect in 1994".[89] The Committee therefore called upon the State party to "to consider repealing the existing provisions of the Labour Code whereby foreign workers are barred from holding trade union offices in Senegal".[90]

45. At the same session, the CESCR considered the additional information submitted by Israel.[91] In doing so, the Committee expressed its continued concern that "the State party's Law of Return denies indigenous Palestinian refugees the right to return to their homes and properties".[92]

46. At its twenty-seventh session, while reviewing the initial periodic report of Croatia,[93] the Committee, "with respect to the right to education, [commended] ... the near achievement of universal and free compulsory primary education, in conformity with article 14 of the Covenant" but expressed its concern regarding "reports that some children from certain minority groups, in particular the Roma and children of undocumented aliens, may not be going to school".[94]

V. COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

47. The Committee on the Elimination of Discrimination against Women (CEDAW) met in 2001 for its twenty-fourth session from 15 January to 2 February, its twenty-fifth session from 2 to 20 July, and its twenty-sixth session from 14 January to 1 February 2002.

48. The Committee considered a number of periodic reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women and issued the following comments and concluding observations regarding the rights of non-citizens under the Convention.

Concluding observations

49. At its twenty-fourth session CEDAW considered the fourth and fifth periodic reports of Egypt.[95] The Committee expressed concern "that the Egyptian nationality law prevents an Egyptian woman from passing on her nationality to her children if her husband is not Egyptian, while Egyptian men married to non-Egyptians may do so".[96] It was further concerned "by the hardship faced by the children of Egyptian women married to non-Egyptian men, including financial hardship with regard to education".[97] CEDAW considered "this limitation on the rights of women to be inconsistent with the Convention".[98] The Committee therefore called upon the State party "to revise the legislation governing nationality in order to make it consistent with the provisions of the Convention".[99]

50. At its twenty-fifth session, CEDAW examined the initial and second periodic reports of Singapore.[100] The Committee noted that, while male Singapore citizens could pass on their nationality to children born abroad, female citizens of Singapore could not. The Committee therefore urged the State party to "amend the nationality law so as to eliminate discrimination against women, and withdraw its reservation to article 9" of the Covenant.[101] CEDAW also expressed concern "that foreign domestic workers are prohibited from working during criminal proceedings against their employers, and that this forces such workers to leave Singapore without waiting to receive compensation from them".[102]

51. At the same session, the Committee considered the initial, second, and third periodic reports of Guinea.[103] CEDAW recommended to the State party "that female and male spouses who marry foreigners be treated equally in regulations governing nationality" and urged "the Government to ensure that the concept of *jus sanguinis* is applied to ensure that children of mixed parentage born outside the country can acquire nationality through their Guinean mother".[104]

VI. COMMITTEE ON THE RIGHTS OF THE CHILD

52. The Committee on the Rights of the Child (CRC) met in 2001 for its twenty-sixth session from 8 to 26 January, its twenty-seventh session from 21 May to 8 June, and its twenty-eighth session from 24 September to 12 October. The Committee also met 14 January to 1 February 2002.

53. During those sessions the CRC made concluding observations and comments on the rights of non-citizen children with regard to several countries, reflecting its mandate to foster implementation of the Convention on the Rights of the Child.

Concluding observations

54. At its twenty-sixth session, during its consideration of the initial periodic report of Latvia,[105] the Committee was "concerned that the principle of non-discrimination is not fully implemented for non-citizen children".[106] The CRC therefore recommended "that the general principles of the Convention, in particular the provisions of its articles 2, 3, and 12, be appropriately integrated in all relevant legislation concerning children and applied in all political, judicial and administrative decisions and in projects, programmes and services which have an impact on all children, including non-citizen children, and guide the determination of policy-making at every level and actions taken by social and health welfare institutions, courts of law and administrative authorities".[107]

55. Also with respect to Latvia, the CRC was "deeply concerned that, although all children born in Latvia after 1991 are automatically entitled to citizenship according to the amendment of 1998 of the Citizenship Law, there are still a large number of children who are without Latvian nationality".[108] It further expressed "concern at the slow pace in general of the process of naturalization of non-citizens in Latvia".[109] The Committee therefore recommended, "in light of article 7 of the Convention," that the State party "streamline the process of naturalization for all those who apply for citizenship and, in particular, [and encouraged] the State party to provide more information and support to the parents of non-citizen children to enable them to apply for citizenship on behalf of their children".[110]

56. At the same session, the CRC reviewed the initial periodic report of Liechtenstein.[111] The Committee, "in light of article 2 of the Covenant," recommended that "the State party renew its campaign, held in 1995, against racism, xenophobia and related intolerance with the view ... to preventing prejudices and hostilities towards foreigners among children and adolescents".[112]

57. During the consideration of the second periodic report of Egypt[113] at its twenty-sixth session, the Committee was "concerned at the negative impact on children of restrictions on the right of an Egyptian woman to pass on her nationality to her child, particularly if she is married to a non-national".[114] The CRC therefore recommended "that the State party remove all provisions of the Nationality Law which discriminate against women, and also against children".[115]

58. With respect to the initial periodic report of Lithuania,[116] also considered at its twenty-sixth session, the CRC noted "with concern that children born to stateless persons who have no right of permanent residence in Lithuania do not automatically obtain Lithuanian citizenship".[117] The Committee then, in light of article 7 of the Convention, encouraged the "State party to take all appropriate measures to ensure that all children born in Lithuania are protected from statelessness".[118]

59. At the same session the CRC examined the initial periodic report of Saudi Arabia.[119] The Committee expressed concern "that the nationality law does not grant equal citizenship status to children of Saudi women married to non-nationals".[120] The Committee therefore, in light of article 2 of the Covenant, recommended "that the State party take effective measures, including

enacting or rescinding civil and criminal legislation where necessary, to prevent and eliminate discrimination on the grounds of sex and birth in all fields of civil, economic, political, social and cultural life".[121]

60. Also at the twenty-sixth session the Committee reviewed the initial periodic report of Palau.[122] The CRC "noted with concern that the law regarding intercountry adoptions does not allow the adopting parents to transfer their nationality to non-Palauan adopted children".[123] "Additionally, concern [was] expressed that children in intercountry adoptions are generally not eligible for a Palauan passport; and may not own or inherit land or benefit from health, education and social service subsidies."[124]

61. At its twenty-seventh session, the CRC considered the initial periodic report of Côte d'Ivoire.[125] The Committee, "while noting that discrimination is prohibited under the Constitution" expressed concern "at the persistence of discrimination in the State party", in particular "the occurrence of discrimination against non-citizen children".[126]

62. At the same session, the Committee examined the initial periodic report of Bhutan.[127] The Committee expressed concern "that under citizenship laws, a child of a Bhutanese mother and a non-national father must face a burdensome naturalization process, whereas this is not required if the father is Bhutanese".[128] The Committee therefore recommended that "the State party ensure the right of a child to a nationality without discrimination on the basis of the gender of the parent(s), in accordance with articles 2 and 7 of the Convention".[129]

63. With respect to the initial periodic report of Monaco,[130] reviewed at the same session, the Committee was "concerned that discrimination against women in the passing on of parents' nationality persists" as well as regarding "information indicating that children of all nationalities are not treated equally".[131] The Committee thus recommended "that the State party pursue its efforts to adopt legislation establishing an equal right for men and women to pass on Monegasque nationality to their children" and, "in light of article 12 ... [recommended] further that the State party continue its efforts to ensure that all children, regardless of their nationality, are treated equally".[132]

64. At its twenty-eighth session, the CRC considered the initial periodic report of Oman.[133] The Committee expressed concern "that the Nationality Law does not grant citizenship to children of Omani women married to non-nationals, as it does where the father is Omani".[134] The CRC therefore recommended "that the State party ensure the right of all children to a nationality, without discrimination on the grounds of either parent's sex, in accordance with articles 2 and 7 of the Convention".[135]

65. Similarly, while considering the initial periodic report of Qatar[136] at the same session, the Committee expressed concern "that the 1961 Nationality Act does not grant citizenship to children of Qatari women married to non-nationals, as it does where the father is Qatari".[137] The Committee recommended "that the State party ensure the right of a child to a nationality without discrimination on the basis of either parent's sex, in accordance with articles 2 and 7 of the Convention".[138]

66. At its twenty-ninth session in January 2002, the CRC reviewed the second periodic report of Lebanon.[139] In doing so, the Committee noted with concern that the Government of Lebanon "does not grant equal citizenship status to children of Lebanese women married to non-nationals, as it does where the father is Lebanese" and that this omission "may result in statelessness".[140]

67. The Committee expressed similar concern in the context of refugees and asylum-seekers, particularly with respect to "the absence of legislative or administrative provisions to protect refugee children" including "the fact that only men may confer citizenship to their children, instances of separation of children from their asylum-seeking parents during detention, as well as difficulties regarding full access to education".[141]

VII. THE INTERNATIONAL COURT OF JUSTICE

68. The International Court of Justice has twice in recent years exercised jurisdiction over a dispute involving the rights of certain non-citizens. At issue in both cases was a provision of the Vienna Convention on Consular Relations that requires States parties to provide certain assistance to detained non-citizens in contacting consular officials of their country of citizenship.

69. Article 36 of the Convention reads in relevant part:

> "1. With a view to facilitating the exercise of consular functions relating to nationals of the sending State: ...
>
> "(b) if he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall also be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this subparagraph; ...
>
> "2. The rights referred to in paragraph 1 of this article shall be exercised in conformity with the laws and regulations of the receiving State, subject to the proviso, however, that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under this article are intended."

70. In the *Case Concerning the Vienna Convention on Consular Relations*,[142] a Paraguayan national, Angel Breard, had been convicted of murder and sentenced to death in the State of Virginia in the United States. Paraguayan authorities first learned of Breard's arrest after his conviction and sentencing. Failing to secure relief in United States courts, the Government of Paraguay brought a case before the International Court of Justice, including a request for provisional measures halting the execution pending the outcome of the suit. The Court granted the request for provisional measures, "given the paramount interest of Paraguay in the life and liberty of its nationals".[143] The Court did not ultimately decide the merits of the case, however, as Paraguay withdrew its complaint after Virginia carried out the execution.

71. In the *LaGrand Case*, two brothers who were German citizens, Karl and Walter LaGrand, had been sentenced to death in the State of Arizona. German authorities did not learn of the convictions until after the trial. As in the *Breard* case, United States authorities conceded that the Vienna Convention had been violated. After unsuccessful attempts to secure relief in United States courts, the German Government filed for relief before the International Court of Justice, including a request for provisional measures requiring the United States to halt the execution of Walter LaGrand. (Karl LaGrand had already been put to death.) Again, the Court granted provisional relief. In its ruling on the merits,[144] the Court held that the Vienna Convention on Consular Relations creates an individual right to certain forms of consular assistance and does not merely regulate the rights and duties of States parties. As a consequence, where the requirements of the Convention are violated, resultant convictions and sentences must in certain circumstances be reviewed.

VIII. WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

72. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (Durban Conference) met in Durban, South Africa, from 31 August to 8 September 2001. The Durban Conference focused some attention on the rights of non-citizens, in particular refugees, asylum-seekers, and migrants, and the two key documents of the Conference, the Durban Declaration and the Durban Programme of Action,[145] contain extensive references to the situation of non-citizens.

The Durban Declaration

73. The Durban Declaration states in paragraph 16, with respect to sources, causes, forms, and contemporary manifestations of racism, racial discrimination, xenophobia, and related intolerance:

> "We recognize that xenophobia against non-nationals, particularly migrants, refugees and asylum-seekers, constitutes one of the main sources of contemporary racism and that human rights violations against members of such groups occur widely in the context of discriminatory, xenophobic and racist practices."

74. Specifically focussing on issues facing and the rights of refugees and asylum-seekers, the Conference:

> "Note[d] with concern that, among other factors, racism, racial discrimination, xenophobia and related intolerance contribute to forced displacement and the movement of people from their countries of origin as refugees and asylum-seekers; (para. 52)
>
> "Recognize[d] with concern that, despite efforts to combat racism, racial discrimination, xenophobia and related intolerance, instances of various forms of racism, racial discrimination, xenophobia and related intolerance against refugees, asylum-seekers and internally displaced persons, among others, continue; (para. 53)

"Underline[d] the urgency of addressing the root causes of displacement and of finding durable solutions for refugees and displaced persons, in particular, voluntary return in safety and dignity to the countries of origin, as well as resettlement in third countries and local integration, when and where appropriate and feasible; (para. 54) [and]

"Affirm[ed its] commitment to respect and implement humanitarian obligations relating to the protection of refugees, asylum-seekers, returnees and internally displaced persons, and note[d] in this regard the importance of international solidarity, burden-sharing and international cooperation to share responsibility for the protection of refugees, [and] reaffirm[ed] that the 1951 Convention relating to the Status of Refugees and its 1967 Protocol remain the foundation of the international refugee regime and recogniz[ed] the importance of their full application by States parties." (para. 55)

75. With paragraph 65 of the Durban Declaration, the international community unequivocally declared its recognition of "the right of refugees to return voluntarily to their homes and properties in dignity and safety, and urge[d] all States to facilitate such return."

76. With respect to refugees specifically, the Durban Declaration reiterated that:

"The international response and policy, including financial assistance, towards refugees and displaced persons in different parts of the world should not be based on discrimination on the grounds of race, colour, descent, or national or ethnic origin of the refugees and displaced persons concerned and, in this context, ... urge[d] the international community to provide adequate assistance on an equitable basis to host countries, in particular to host developing countries and countries in transition." (para. 111)

77. Through the Declaration, the Conference also specifically recognized and expressed concern for the rights of migrants by:

"Call[ing] upon all States to review and, where necessary, revise any immigration policies which are inconsistent with international human rights instruments, with a view to eliminating all discriminatory policies and practices against migrants, including Asians and people of Asian descent; (para. 38)

"Not[ing] with concern and strongly condemn[ing] the manifestations and acts of racism, racial discrimination, xenophobia and related intolerance against migrants and the stereotypes often applied to them; reaffirm[ing] the responsibility of States to protect the human rights of migrants under their jurisdiction and reaffirm[ing] the responsibility of

States to safeguard and protect migrants against illegal or violent acts, in particular acts of racial discrimination and crimes perpetrated with racist or xenophobic motivation by individuals or groups; and stress[ing] the need for their fair, just and equitable treatment in society and in the workplace; (para. 48)

"Highlight[ing] the importance of creating conditions conducive to greater harmony, tolerance and respect between migrants and the rest of society in the countries in which they find themselves, in order to eliminate manifestations of racism and xenophobia against migrants [and] underlin[ing] that family reunification has a positive effect on integration and emphasiz[ing] the need for States to facilitate family reunion; (para. 49)

"[Being] mindful of the situation of vulnerability in which migrants frequently find themselves, owing, inter alia, to their departure from their countries of origin and to the difficulties they encounter because of differences in language, customs and culture, as well as economic and social difficulties and obstacles to the return of migrants who are undocumented or in an irregular situation; (para. 50) [and]

"Reaffirm[ing] the necessity of eliminating racial discrimination against migrants, including migrant workers, in relation to issues such as employment, social services, including education and health, as well as access to justice, and that their treatment must be in accordance with international human rights instruments, free from racism, racial discrimination, xenophobia and related intolerance." (para. 51)

78. The Durban Declaration also, in paragraph 89, notes:

"with regret that certain media, by promoting false images and negative stereotypes of vulnerable individuals or groups of individuals, particularly of migrants and refugees, have contributed to the spread of xenophobic and racist sentiments among the public and in some cases have encouraged violence by racist individuals and groups."

The Durban Programme of Action

79. Recognizing the many issues in the Durban Declaration that detrimentally affect non-citizens, the Conference agreed to take action to ameliorate such situations.

80. With respect to refugees and asylum-seekers, the Conference:

"Urge[d] States to comply with their obligations under international human rights, refugee and humanitarian law relating to refugees, asylum-seekers and displaced persons, and urge[d] the international community to provide them with protection and assistance in an equitable manner and with due regard to their needs in different parts of the world, in keeping with principles of international solidarity, burden-sharing and international cooperation, to share responsibilities; (para. 34)

"Call[ed] upon States to recognize the racism, racial discrimination, xenophobia and related intolerance that refugees may face as they endeavour to engage in the life of

the societies of their host countries and encourage[d] States, in accordance with their international obligations and commitments, to develop strategies to address this discrimination and to facilitate the full enjoyment of the human rights of refugees. States parties should ensure that all measures relating to refugees must be in full accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol; (para. 35) [and]

"Urge[d] States to take effective steps to protect refugee and internally displaced women and girls from violence, to investigate any such violations and to bring those responsible to justice, in collaboration, when appropriate, with the relevant and competent organizations." (para. 36)

81. The Durban Conference also:

"Expresse[d] its deep concern over the severity of the humanitarian suffering of affected civilian populations and the burden carried by many receiving countries, particularly developing countries and countries in transition, and request[ed] the relevant international institutions to ensure that urgent adequate financial and humanitarian assistance is maintained for the host countries to enable them to help the victims and to address, on an equitable basis, difficulties of populations expelled from their homes, and calls for sufficient safeguards to enable refugees to exercise freely their right of return to their countries of origin voluntarily, in safety and dignity." (para. 185)

82. In the Durban Programme of Action, the Conference called for even stronger protections for migrants. For instance, the Conference:

"Request[ed] all States to combat manifestations of a generalized rejection of migrants and actively to discourage all racist demonstrations and acts that generate xenophobic behaviour and negative sentiments towards, or rejection of, migrants; (para. 24)

"Invite[d] international and national non-governmental organizations to include monitoring and protection of the human rights of migrants in their programmes and activities and to sensitize Governments and increase public awareness in all States about the need to prevent racist acts and manifestations of discrimination, xenophobia and related intolerance against migrants; (para. 25)

"Request[ed] States to promote and protect fully and effectively the human rights and fundamental freedoms of all migrants, in conformity with the Universal Declaration of Human Rights and their obligations under international human rights instruments, regardless of the migrants' immigration status; (para. 26)

"Encourage[d] States to promote education on the human rights of migrants and to engage in information campaigns to ensure that the public receives accurate information regarding migrants and migration issues, including the positive contribution of migrants to the host society and the vulnerability of migrants, particularly those who are in an irregular situation; (para. 27)

"Call[ed] upon States to facilitate family reunification in an expeditious and effective manner which has a positive effect on integration of migrants, with due regard for the desire of many family members to have an independent status; (para. 28)

"Urge[d] States to take concrete measures that would eliminate racism, racial discrimination, xenophobia and related intolerance in the workplace against all workers, including migrants, and ensure the full equality of all before the law, including labour law, and further urge[d] States to eliminate barriers, where appropriate, to: participating in vocational training, collective bargaining, employment, contracts and trade union activity; accessing judicial and administrative tribunals dealing with grievances; seeking employment in different parts of their country of residence; and working in safe and healthy conditions; (para. 29)

"Urge[d] States:

"(a) To develop and implement policies and action plans, and to reinforce and implement preventive measures, in order to foster greater harmony and tolerance between migrants and host societies, with the aim of eliminating manifestations of racism, racial discrimination, xenophobia and related intolerance, including acts of violence, perpetrated in many societies by individuals or groups;

"(b) To review and revise, where necessary, their immigration laws, policies and practices so that they are free of racial discrimination and compatible with States' obligations under international human rights instruments;

"(c) To implement specific measures involving the host community and migrants in order to encourage respect for cultural diversity, to promote the fair treatment of migrants and to develop programmes, where appropriate, that facilitate their integration into social, cultural, political and economic life;

"(d) To ensure that migrants, regardless of their immigration status, detained by public authorities are treated with humanity and in a fair manner, and receive effective legal protection and, where appropriate, the assistance of a competent interpreter in accordance with the relevant norms of international law and human rights standards, particularly during interrogation;

"(e) To ensure that the police and immigration authorities treat migrants in a dignified and non-discriminatory manner, in accordance with international standards, through, inter alia, organizing specialized training courses for administrators, police officers, immigration officials and other interested groups;

"(f) To consider the question of promoting the recognition of the educational, professional and technical credentials of migrants, with a view to maximizing their contribution to their new States of residence;

"(g) To take all possible measures to promote the full enjoyment by all migrants of all human rights, including those related to fair wages and equal remuneration for work of equal value without distinction of any kind, and to the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond their control, social security, including social insurance, access to education, health care, social services and respect for their cultural identity; [and]

"(h) To consider adopting and implementing immigration policies and programmes that would enable immigrants, in particular women and children who are victims of spousal or domestic violence, to free themselves from abusive relationships. (para. 30)

"Urge[d] States, in the light of the increased proportion of women migrants, to place special focus on gender issues, including gender discrimination, particularly when the multiple barriers faced by migrant women intersect; detailed research should be undertaken not only in respect of human rights violations perpetrated against women migrants, but also on the contribution they make to the economies of their countries of origin and their host countries, and the findings should be included in reports to treaty bodies; (para. 31)

"Urge[d] States to recognize the same economic opportunities and responsibilities to documented long-term migrants as to other members of society; (para. 32) [and]

"Recommend[ed] that host countries of migrants consider the provision of adequate social services, in particular in the areas of health, education and adequate housing, as a matter of priority, in cooperation with the United Nations agencies, the regional organizations and international financial bodies; [and] also request[ed] that these agencies provide an adequate response to requests for such services." (para. 33)

83. The Durban Programme of Action also urged:

"States to strengthen the human rights training and awareness-raising activities designed for immigration officials, border police and staff of detention centres and prisons, local authorities and other civil servants in charge of enforcing laws, as well as teachers, with particular attention to the human rights of migrants, refugees and asylum-seekers, in order to prevent acts of racial discrimination and xenophobia and to avoid situations where prejudices lead to decisions based on racism, racial discrimination, xenophobia or related intolerance." (para. 138)

84. Through the Durban Programme of Action, the Conference also urged:

"States and encourages the private sector to promote the development by the media, including the print and electronic media, including the Internet and advertising, taking into account their independence, through their relevant associations and organizations at the national, regional and international levels, of a voluntary ethical code of conduct and self-regulatory measures, and of policies and practices aimed at ...

avoiding stereotyping in all its forms, and particularly the promotion of false images of migrants, including migrant workers, and refugees, in order to prevent the spread of xenophobic sentiments among the public and to encourage the objective and balanced portrayal of people, events and history." (para. 144 (e))

85. Finally, with respect to trafficking in persons, the international community:

"Urge[d] States to enact and implement, as appropriate, laws against trafficking in persons, especially women and children, and smuggling of migrants, taking into account practices that endanger human lives or lead to various kinds of servitude and exploitation, such as debt bondage, slavery, sexual exploitation or labour exploitation; [and] also encourage[d] States to create, if they do not already exist, mechanisms to combat such practices and to allocate adequate resources to ensure law enforcement and the protection of the rights of victims, and to reinforce bilateral, regional and international cooperation, including with non-governmental organizations that assist victims, to combat this trafficking in persons and smuggling of migrants." (para. 69)

IX. UNHCR'S GLOBAL CONSULTATIONS PROCESS[146]

86. The proliferation of conflicts generating mass flight, refugee-producing situations without resolution, a plethora of concerns besetting host countries coupled with unequal burden-sharing, abuse of the asylum system, and a marked rise in smuggling of people for profit are some issues influencing access and quality of asylum for refugees, a particular group of non-citizens. Against this backdrop, and bearing in mind the fiftieth anniversary of the 1951 Convention relating to the Status of Refugees (1951 Convention), UNHCR launched the process of Global Consultations on International Protection in 2000 to prompt reflection and action to revitalize the 1951 Convention framework. It provided a forum for Governments and other relevant actors to discuss how to address current humanitarian challenges more effectively in a spirit of dialogue and cooperation. This process will be completed in the course of 2002.

The three tracks of the Global Consultations

87. The Global Consultations were designed along three parallel tracks:

(a) First track: Ministerial Meeting of States Parties;

(b) Second track: expert round tables; and

(c) Third track: policy formulation in the Executive Committee framework.

88. As the "first track" of the Global Consultations, the Government of Switzerland and UNHCR convened a major intergovernmental meeting on 12 and 13 December 2001 to reaffirm the commitment of States parties to full and effective implementation of the 1951 Convention and its 1967 Protocol and encourage additional accessions. The 129 States parties in

attendance unanimously adopted a declaration which recognizes the enduring relevance and importance of the 1951 Convention and its 1967 Protocol, unequivocally reaffirms political commitment to upholding the values and principles they embody, and urges all States to strengthen their implementation. The declaration contains a number of other significant new affirmations, including that the principle of non-refoulement (whereby refugees cannot be returned to the frontiers of territories where their lives or freedoms would be threatened) is embedded in customary international law.

89. The "second track" of the Global Consultations was a series of expert round tables for discussions on specific interpretative aspects of the 1951 Convention and its 1967 Protocol, providing a forum to take stock of developments in refugee law and to examine a number of emerging issues. The process comprised four expert round tables with participants drawn from Governments, NGOs, academia, the judiciary and the legal profession, which discussed issues of particular importance for the provision of refugee protection, namely: cessation, exclusion, non-refoulement, UNHCR's supervisory role, gender-related persecution, membership of a particular social group, internal flight alternative, illegal entry, and family.

90. The "third track" of the Consultations, that is, policy formulation in the Executive Committee framework, has been structured around a number of protection policy matters, including issues not adequately covered by the 1951 Convention. This process has been designed, firstly, to foster a common understanding of the protection challenges and enhance cooperation to address them. Secondly, the process is expected to identify and promote practical responses to protection problems; and thirdly, to lead to the development of new approaches, tools and standards to strengthen protection in areas not adequately covered by the Convention. The discussions have been taking place within the framework of the Executive Committee of UNHCR. A total of three meetings took place in 2001 and one took place from 22 to 24 May 2002. Discussions centred on identifying and developing practical responses around four broad themes: protection of refugees in mass influx situations (March 2001); protection of refugees in the context of individual asylum systems (June and September 2001); the search for protection-based solutions (May 2002); and the protection of refugee women and children (May 2002).

Agenda for Protection

91. Deriving from the entire Global Consultations process is a convergence of views on how to enhance refugee protection. To move the process forward, it is envisaged to design a multiyear programme of action - an Agenda for Protection - which contains suggested activities for States, UNHCR, NGOs, and other protection partners identified within the Global Consultations. The Agenda for Protection will guide action in strengthening refugee protection during the years ahead.

X. INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

92. On 5 February 2002 Ecuador became the nineteenth State party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Article 87 of the Convention provides that the treaty will come into force three months after the twentieth instrument of ratification or accession is deposited with the Secretary-General. It appears likely that the Convention will come into force and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families will be established in the near future.

XI. SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF MIGRANTS

93. In February 2002 the Special Rapporteur on the human rights of migrants, Ms. Gabriela Rodríguez Pizarro, submitted her third annual report to the Commission on Human Rights (E/CN.4/2002/94). The Special Rapporteur identified and briefly discussed several causes of migratory flows. She gave particular attention to trafficking in migrants; other trafficking in persons; the connection between asylum and migration; discrimination against migrants arising since 11 September 2001, the situation of migrant women; and unaccompanied children. The Special Rapporteur transmitted urgent appeals to Saudi Arabia, Bahrain, Indonesia, the Islamic Republic of Iran, Lebanon, Spain, Turkey and the United States of America. She also sent communications through normal channels to Indonesia, Morocco and Spain. In addition, the Special Rapporteur visited Ecuador and after her report went to the Commission she visited the border area between Mexico and the United States.

Notes

[1] *F.A. v. Norway*, Communication No. 18/2000: Norway, 17 April 2001, document CERD/C/58/D/18/2000 (2000).

[2] Ibid., para. 2.4.

[3] Ibid.

[4] Ibid., para. 7 (a).

[5] Ibid., para. 8.

[6] Concluding observation of the Committee on the Elimination of Racial Discrimination: Iceland, document CERD/C/304/Add.111 (27 April 2001).

[7] Ibid., para. 14.

[8] Ibid.

[9] Concluding observations of the Committee on the Elimination of Racial Discrimination: Japan, document CERD/C/304/Add.114 (27 April 2001).

[10] Ibid., para. 15.

[11] Ibid.

[12] See ibid., para. 16.

[13] Ibid.

[14] Ibid.

[15] Ibid., para. 18.

[16] Ibid.

[17] Concluding observation of the Committee on the Elimination of Racial Discrimination: Germany, document CERD/C/304/Add.115 (27 April 2001).

[18] Ibid., para. 19.

[19] Ibid.

[20] Concluding observation of the Committee on the Elimination of Racial Discrimination: Sudan, document CERD/C/304/Add.116 (27 April 2001).

[21] Ibid., para. 15.

[22] Ibid.

[23] Concluding observations of the Committee on the Elimination of Racial Discrimination China, in document A/56/18, paras. 231-255 (9 August 2001).

[24] Ibid., para. 248.

[25] Concluding observations of the Committee on the Elimination of Racial Discrimination: Cyprus, in document A/56/18, paras. 256-277 (10 August 2001).

[26] Ibid., para. 267.

[27] Concluding observation of the Committee on the Elimination of Racial Discrimination: Egypt, in document A/56/18, paras. 278-297 (15 August 2001).

[28] Ibid., para. 288.

[29] Ibid.

[30] Concluding observations of the Committee on the Elimination of Racial Discrimination: Sri Lanka, in document A/56/18, paras. 321-342 (14 September 2001).

[31] Ibid., para. 334.

[32] Ibid.

[33] Ibid.

[34] Concluding observations of the Committee on the Elimination of Racial Discrimination: Ukraine, in document A/56/18, paras. 360-379 (16 August 2001).

[35] Ibid., para. 374.

[36] Ibid., para. 375.

[37] Concluding observations of the Committee on the Elimination of Racial Discrimination: United States of America, in document A/56/18, paras. 380-407 (14 August 2001).

[38] Ibid., para. 394.

[39] Ibid.

[40] Ibid.

[41] *Blazek, Hartman and Krizek v. Czech Republic*, communication No. 857/1999: Czech Republic, document CCPR/C/72/D/857/1999 (9 August 2001).

[42] Ibid., para. 7.

[43] Ibid.

[44] Communication No. 516/1992: Czech Republic, document CCPR/C/54/D/516/1992 (31 July 1995).

[45] Communication No. 586/1994: Czech Republic, document CCPR/C/72/D/857/1999 (25 July 1996).

[46] Communication No. 586/1994: Czech Republic, Views of the Human Rights Committee, document CCPR/C/57/D/586/1994, para. 12.6.

[47] *Winata and Lan Li v. Australia*, communication No. 930/2000: Australia, document CCPR/C/72/D/930/2000 (16 August 2001).

[48] Supra note 47, para. 7.3.

[49] Concluding observations of the Human Rights Committee: Dominican Republic, document CCPR/CO/71/DOM (26 April 2001).

[50] Ibid., para. 17.

[51] Ibid.

[52] Ibid., para. 18.

[53] Ibid.

[54] Concluding observations of the Human Rights Committee: Croatia, document CCPR/CO/71/HRV (26 April 2001).

[55] Ibid., para. 18.

[56] Concluding observations of the Human Rights Committee: Syrian Arab Republic, document CCPR/CO/71/SYR (5 April 2001).

[57] Ibid., para. 22.

[58] Ibid.

[59] Concluding observations of the Human Rights Committee: Czech Republic, document CCPR/CO/72/CZE (27 August 2001).

[60] Ibid., para. 15.

[61] Ibid.

[62] Concluding observations of the Human Rights Committee: Monaco, document CCPR/CO/72/MCO (28 August 2001).

[63] Ibid., para. 16.

[64] Ibid.

[65] Ibid., para. 23.

[66] Concluding observations of the Human Rights Committee: Netherlands, document CCPR/CO/72/NET (27 August 2001).

[67] Ibid., para. 10.

[68] Concluding observations of the Human Rights Committee: Democratic People's Republic of Korea, document CCPR/CO/72/PRK (27 August 2001).

[69] Ibid., para. 20.

[70] Ibid.

[71] Concluding observations of the Human Rights Committee: Azerbaijan, document CCPR/CO/73/AZE (12 November 2001).

[72] Ibid., para. 20.

[73] Ibid.

[74] Ibid.

[75] Concluding observations of the Human Rights Committee: Switzerland, document CCPR/CO/73/CH (5 November 2001).

[76] Ibid., para. 11.

[77] Ibid., para. 13.

[78] Ibid.

[79] Ibid., para. 15.

[80] Ibid.

[81] Ibid.

[82] Ibid.

[83] Concluding observations of the Human Rights Committee: Ukraine, document CCPR/CO/73/UKR (5 November 2001).

[84] Ibid., para. 13.

[85] Ibid.

[86] Concluding observations of the Committee on Economic, Social and Cultural Rights (Hong Kong): China, document E/C.12/1/Add.58 (21 May 2001).

[87] Ibid., para. 15 (f). For an explanation of the "two-week rule" see paragraph 12 above.

[88] Concluding observations of the Committee on Economic, Social and Cultural Rights: Senegal, document E/C.12/1/Add.62 (24 September 2001).

[89] Ibid., para. 22.

[90] Ibid., para. 44.

[91] Concluding observations of the Committee on Economic, Social and Cultural Rights: Israel, document E/C.12/1/Add.69 (31 August 2001).

[92] Ibid., para. 14.

[93] Concluding observations of the Committee on Economic, Social and Cultural Rights: Croatia, document E/C.12/1/Add.73 (30 November 2001).

[94] Ibid., para. 14.

[95] Concluding observations of the Committee on the Elimination of Discrimination against Women: Egypt, in document A/56/38, paras. 312-358 (2 February 2001).

[96] Ibid., para. 330.

[97] Ibid.

[98] Ibid.

[99] Ibid., para. 331.

[100] Concluding observations of the Committee on the Elimination of Discrimination against Women: Singapore, in document A/56/38, paras. 54-96 (31 July 2001).

[101] Ibid., para. 75.

[102] Ibid., para. 81.

[103] Concluding observations of the Committee on the Elimination of Discrimination against Women: Guinea, in document A/56/38, paras. 97-144 (31 July 2001).

[104] Ibid., para. 125.

[105] Concluding observations of the Committee on the Rights of the Child: Latvia, document CRC/C/15/Add.142 (26 January 2001).

[106] Ibid., para. 23.

[107] Ibid., para. 22.

[108] Ibid., para. 25.

[109] Ibid.

[110] Ibid., para. 26.

[111] Concluding observations of the Committee on the Rights of the Child: Liechtenstein, document CRC/C/15/Add.143 (26 January 2001).

[112] Ibid., para. 21.

[113] Concluding observations of the Committee on the Rights of the Child: Egypt, document CRC/C/15/Add.145 (26 January 2001).

[114] Ibid., para. 29 (b).

[115] Ibid., para. 30.

[116] Concluding observations of the Committee on the Rights of the Child: Lithuania, document CRC/C/15/Add.146 (26 January 2001).

[117] Ibid., para. 23.

[118] Ibid., para. 24.

[119] Concluding observations of the Committee on the Rights of the Child: Saudi Arabia, document CRC/C/15/Add.148 (26 January 2001).

[120] Ibid., para. 23.

[121] Ibid., para. 24.

[122] Concluding observations of the Committee on the Rights of the Child: Palau, document CRC/C/15/Add.149 (21 February 2001).

[123] Ibid., para. 40.

[124] Ibid.

[125] Concluding observations of the Committee on the Rights of the Child: Côte d'Ivoire, document CRC/C/15/Add.155 (9 July 2001).

[126] Ibid., para. 22.

[127] Concluding observations of the Committee on the Rights of the Child: Bhutan, document CRC/C/15/Add.157 (9 July 2001).

[128] Ibid., para. 36.

[129] Ibid., para. 37.

[130] Concluding observations of the Committee on the Rights of the Child: Monaco, document CRC/C/15/Add.158 (8 June 2001).

[131] Ibid., para. 20.

[132] Ibid., para. 21.

[133] Concluding observations of the Committee on the Rights of the Child: Oman, document CRC/C/15/Add.161 (6 November 2001).

[134] Ibid., para. 33.

[135] Ibid., para. 34.

[136] Concluding observations of the Committee on the Rights of the Child: Qatar, document CRC/C/15/Add.163 (6 November 2001).

[137] Ibid., para. 41.

[138] Ibid., para. 42.

[139] Concluding observations of the Committee on the Rights of the Child: Lebanon, document CRC/C/15/Add.169 (1 February 2002).

[140] Ibid., para. 32.

[141] Ibid., para. 52.

[142] *Case concerning the Vienna Convention on Consular Relations (Paraguay v. The United States of America), Order of 9 April 1988 - Request for the Indication of Provisional Measures, I.C.J. Report 1998.*

[143] Ibid., para. 8

[144] *LaGrand Case (Germany v. The United States of America), Judgment of 27 June 2001, I.C.J. Reports 2001.*

[145] Report of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Durban, South Africa, 31 August - 8 September 2001 (A/CONF.189/12), chap. I.

[146] More information on the Global Consultations on International Protection is available on UNHCR's public web site (www.unhcr.ch - Global Consultations - Documents).

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